



Rep. Mary E. Flowers

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LRB096 21041 EFG 38248 a

1 AMENDMENT TO HOUSE BILL 6409

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 6409 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Findings; purpose; text and revisory changes;  
5 validation; additional material.

6 (a) The Illinois Supreme Court, in *Lebron v. Gottlieb*  
7 *Memorial Hospital*, found that the limitations on noneconomic  
8 damages in medical malpractice actions that were created in  
9 Public Act 94-677, contained in Section 2-1706.5 of the Code of  
10 Civil Procedure, violate the separation of powers clause of the  
11 Illinois Constitution. Because Public Act 94-677 contained an  
12 inseverability provision, the Court held the Act to be void in  
13 its entirety. The Court emphasized, however, that "because the  
14 other provisions contained in Public Act 94-677 are deemed  
15 invalid solely on inseverability grounds, the legislature  
16 remains free to reenact any provisions it deems appropriate".

17 (b) It is the purpose of this Act to reenact a provision of

1 Public Act 94-677 that did not involve limitations on  
2 noneconomic damages in medical malpractice actions, and to  
3 validate certain actions taken in reliance on that provision.

4 (c) This Act reenacts Section 24.1 of the Medical Practice  
5 Act of 1987, which relates to physician profiles. This Act does  
6 not reenact any other provisions of Public Act 94-677.

7 In this Act, the base text of the reenacted Section is set  
8 forth as it existed at the time of the Supreme Court's  
9 decision, including any amendments that occurred after P.A.  
10 94-677. Striking and underscoring is used only to show any  
11 changes being made to that base text.

12 (d) All otherwise lawful actions taken in reasonable  
13 reliance on or pursuant to the Section reenacted by this Act,  
14 as set forth in Public Act 94-677 or subsequently amended, by  
15 any officer, employee, agency, or unit of State or local  
16 government or by any other person or entity, are hereby  
17 validated.

18 With respect to actions taken in relation to matters  
19 arising under the Section reenacted by this Act, a person is  
20 rebuttably presumed to have acted in reasonable reliance on and  
21 pursuant to the provisions of Public Act 94-677, as those  
22 provisions had been amended at the time the action was taken.

23 With respect to their administration of matters arising  
24 under the Section reenacted by this Act, officers, employees,  
25 agencies, and units of State and local government shall  
26 continue to apply the provisions of Public Act 94-677, as those

1 provisions had been amended at the relevant time.

2 Section 5. The Medical Practice Act of 1987 is amended by  
3 reenacting Section 24.1 as follows:

4 (225 ILCS 60/24.1)

5 (Section scheduled to be repealed on December 31, 2010)

6 Sec. 24.1. Physician profile.

7 (a) This Section may be cited as the Patients' Right to  
8 Know Law.

9 (b) The Department shall make available to the public a  
10 profile of each physician. The Department shall make this  
11 information available through an Internet web site and, if  
12 requested, in writing. The physician profile shall contain the  
13 following information:

14 (1) the full name of the physician;

15 (2) a description of any criminal convictions for  
16 felonies and Class A misdemeanors, as determined by the  
17 Department, within the most recent 5 years. For the  
18 purposes of this Section, a person shall be deemed to be  
19 convicted of a crime if he or she pleaded guilty or if he  
20 was found or adjudged guilty by a court of competent  
21 jurisdiction;

22 (3) a description of any final Department disciplinary  
23 actions within the most recent 5 years;

24 (4) a description of any final disciplinary actions by

1           licensing boards in other states within the most recent 5  
2           years;

3           (5) a description of revocation or involuntary  
4           restriction of hospital privileges for reasons related to  
5           competence or character that have been taken by the  
6           hospital's governing body or any other official of the  
7           hospital after procedural due process has been afforded, or  
8           the resignation from or nonrenewal of medical staff  
9           membership or the restriction of privileges at a hospital  
10          taken in lieu of or in settlement of a pending disciplinary  
11          case related to competence or character in that hospital.  
12          Only cases which have occurred within the most recent 5  
13          years shall be disclosed by the Department to the public;

14          (6) all medical malpractice court judgments and all  
15          medical malpractice arbitration awards in which a payment  
16          was awarded to a complaining party during the most recent 5  
17          years and all settlements of medical malpractice claims in  
18          which a payment was made to a complaining party within the  
19          most recent 5 years. A medical malpractice judgment or  
20          award that has been appealed shall be identified  
21          prominently as "Under Appeal" on the profile within 20 days  
22          of formal written notice to the Department. Information  
23          concerning all settlements shall be accompanied by the  
24          following statement: "Settlement of a claim may occur for a  
25          variety of reasons which do not necessarily reflect  
26          negatively on the professional competence or conduct of the

1 physician. A payment in settlement of a medical malpractice  
2 action or claim should not be construed as creating a  
3 presumption that medical malpractice has occurred."  
4 Nothing in this subdivision (6) shall be construed to limit  
5 or prevent the Disciplinary Board from providing further  
6 explanatory information regarding the significance of  
7 categories in which settlements are reported. Pending  
8 malpractice claims shall not be disclosed by the Department  
9 to the public. Nothing in this subdivision (6) shall be  
10 construed to prevent the Disciplinary Board from  
11 investigating and the Department from disciplining a  
12 physician on the basis of medical malpractice claims that  
13 are pending;

14 (7) names of medical schools attended, dates of  
15 attendance, and date of graduation;

16 (8) graduate medical education;

17 (9) specialty board certification. The toll-free  
18 number of the American Board of Medical Specialties shall  
19 be included to verify current board certification status;

20 (10) number of years in practice and locations;

21 (11) names of the hospitals where the physician has  
22 privileges;

23 (12) appointments to medical school faculties and  
24 indication as to whether a physician has a responsibility  
25 for graduate medical education within the most recent 5  
26 years;

1           (13) information regarding publications in  
2 peer-reviewed medical literature within the most recent 5  
3 years;

4           (14) information regarding professional or community  
5 service activities and awards;

6           (15) the location of the physician's primary practice  
7 setting;

8           (16) identification of any translating services that  
9 may be available at the physician's primary practice  
10 location;

11           (17) an indication of whether the physician  
12 participates in the Medicaid program.

13           (c) The Disciplinary Board shall provide individual  
14 physicians with a copy of their profiles prior to release to  
15 the public. A physician shall be provided 60 days to correct  
16 factual inaccuracies that appear in such profile.

17           (d) A physician may elect to have his or her profile omit  
18 certain information provided pursuant to subdivisions (12)  
19 through (14) of subsection (b) concerning academic  
20 appointments and teaching responsibilities, publication in  
21 peer-reviewed journals and professional and community service  
22 awards. In collecting information for such profiles and in  
23 disseminating the same, the Disciplinary Board shall inform  
24 physicians that they may choose not to provide such information  
25 required pursuant to subdivisions (12) through (14) of  
26 subsection (b).

1           (e) The Department shall promulgate such rules as it deems  
2 necessary to accomplish the requirements of this Section.

3           (Source: P.A. 94-677, eff. 8-25-05.)

4           Section 97. Severability. The provisions of this Act are  
5 severable under Section 1.31 of the Statute on Statutes.

6           Section 99. Effective date. This Act takes effect upon  
7 becoming law.".